

## REMARKS

### I. Restriction

The Examiner has vacated the Restriction Requirement mailed September 27, 2007 and issued a new Restriction Requirement. The Examiner requires Applicants to elect invention (I) claims 42-93 drawn to methods of ameliorating or preventing damage caused by cigarette smoke; or (II) claims 94-100 drawn to a method of treating, ameliorating or preventing damage caused by cigarette smoke, comprising administering a polynucleotide to an animal.

Applicants hereby elect without traverse invention (I), claims 42-93. Applicants reserve the right to pursue unelected subject matter in one or more continuation or divisional applications.

The Examiner further requires an election of a species of peptide, patient population, damage to be prevented, amount of substance P or substance P analog, species of substance P or substance P analog, and route of administration.

In response, hereby Applicants elect the species of peptide, *i.e.*, the species of substance P or substance P analog, that is [Sar<sup>9</sup>, Met (O<sub>2</sub>)<sup>11</sup>]-substance P. Applicants further elect the route of administration that is inhalation; the amount of substance P that is 5  $\mu$ M, and the damage to be corrected that is decreased dynamic lung compliance; *e.g.*, a method for increasing dynamic lung compliance.. Applicants further elect the patent population that is subjects exposed to main stream cigarette smoke.

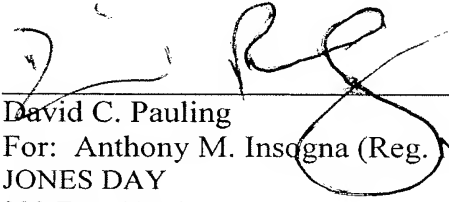
Applicants believe claims 42, 44- 46, 49, 51-54, 68, 69, 71-73, 76, and 78-81, read on the elected species.

## II. Conclusion

Applicants believe the above-identified patent application is in condition for allowance. Applicants respectfully request that the Examiner contact the undersigned at (650) 739-3949 should any issue remain prior to allowance.

Respectfully submitted,

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